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HERNDON TOWN COUNCIL
Tuesday
June 8, 2021

Pursuant to Virginia Code Section 2.2-3708.2, as amended; the Governor's Executive Orders, as amended; in accordance with Ordinance 20-O-23, Continuity of Governmental Operations during Pandemic Disaster (COVID-19), as amended and readopted by the Herndon Town Council on September 8, 2020, which superseded previously adopted amendments, the regularly scheduled June 8, 2021 Herndon Town Council Public Hearing would be by electronic means. The meeting was broadcast and recorded through Cisco Webex and details for the meeting were made available to the public on Thursday, May 20, 2021. In attendance electronically were: Mayor Sheila A. Olem; Vice Mayor Cesar del Aguila; and Councilmembers Naila Alam; Pradip Dhakal; Signe Friedrichs; Sean M. Regan; and Jasbinder Singh.

Staff present during the meeting: William H. Ashton II, Town Manager; Lesa Yeatts, Town Attorney; Elizabeth Gilleran, Director of Community Development; Tammy Chastain, Deputy Director of Public Works; and Amanda M. Kertz, Chief Deputy Town Clerk.

Announcements

Amanda M. Kertz, Chief Deputy Town Clerk, welcomed those listening to the June 8, 2021 Town Council public hearing and stated that night's regularly scheduled Herndon Town Council meeting was a virtual meeting, which was being conducted electronically pursuant to:

- ❖ Virginia Code Section 2.2-3708.2, as amended;
- ❖ the Governor's Executive Orders, as amended; and

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- ❖ in accordance with Ordinance 20-O-23, Continuity of Governmental Operations during Pandemic Disaster (COVID-19), as amended and readopted by the Herndon Town Council on September 8, 2020, which superseded previously adopted amendments.
- Proper notice of the electronic meeting was provided in accordance with the Code of Virginia;
- Agenda and meeting materials, along with information for viewing the meeting and submitting comments for the record are available on the town's website; and
- Electronic meetings will begin with a roll call to determine a quorum and all votes, including adjournment, will be by roll call vote.

CALL TO ORDER

1. Roll Call & Determination of Quorum

Mayor Olem called the public hearing by electronic means to order at 7:00 p.m. and asked Ms. Kertz to call the roll for attendance. Mayor Olem asked each councilmember to respond by clearly stating their name and indicating they were present.

Following the roll call for attendance, Mayor Olem confirmed there was an electronic quorum present. All members were present electronically, with Mayor Olem presiding. As Ms. Kertz stated, the meeting that evening was being conducted pursuant to the appropriate laws associated with the COVID-19 pandemic disaster.

Mayor Olem asked Council to observe meeting decorum by showing their hand to be recognized by the chair for comments and stating their last names before providing comments and when making or seconding motions. She reminded those participating to follow the town's Meeting Guidelines that were used for all government meetings to maintain good order, which included: refraining from participation unless and until recognized by the chair; being respectful in comments; refraining from threatening or intimidating language; profane, vulgar, obscene, or threatening remarks were not permitted; and attacks on the character, motive, or other harmful remarks against individual members of Council, town staff, or the public would not be tolerated.

APPROVAL OF MINUTES

Vote on April 6, 2021

Town Council Work Session Minutes

On motion of Councilmember Friedrichs, seconded by Councilmember Dhakal and carried by unanimous roll call vote by electronic means, the minutes of the April 6, 2021

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Town Council Work Session were approved. The vote was: Councilmembers Alam, Dhakal, Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye."

Vote on April 13, 2021

Town Council Public Hearing Minutes

On motion of Councilmember Friedrichs, seconded by Councilmember Singh and carried by unanimous roll call vote by electronic means, the minutes of the April 13, 2021 Town Council Public Hearing were approved. The vote was: Councilmembers Alam, Dhakal, Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye."

ANNOUNCEMENTS

Mayor Olem announced the town would have a July Fourth firework display that year, but they would be unable to have concessions and additional entertainment. Further information, including parking information, would be available on the town's website, and she looked forward to seeing everyone there.

Mayor Olem also announced that in-person Council meetings would resume in July. The July 6, 2021 meeting would be at the Herndon Community Center, and a 5:30 closed meeting would take place for discussion of a specific employee and their review.

2. PANDEMIC UPDATE FROM THE TOWN MANAGER

Mayor Olem recognized William H. Ashton II, Town Manager, for his comments and updates.

Mr. Ashton indicated he would also share information about the Fourth of July firework display and upcoming in-person meetings.

Regarding the pandemic, Mr. Ashton stated numbers kept improving. The percent positivity was a little over one percent, and the new cases per day in Fairfax County were in the single digits compared to 300 new cases per day at some points in the pandemic. Mr. Ashton encouraged people to get vaccinated, continue washing their hands, and doing things to keep this momentum going.

Mr. Ashton stated information about the Fourth of July firework display would be in the News You Can Use, on town social media, and on the town website. He indicated there would be some restrictions to review.

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Mr. Ashton stated Council would resume in-person meetings on July 6, 2021 and the meeting would be at the Herndon Community Center in the large community room. He informed Council that their 5:30 p.m. closed meeting would take place in the small community room.

The large community room would accommodate Council, staff, and anyone who wanted to attend the work session in-person for the first time in over a year.

Public hearings would return to the Council Chambers the following week on July 13, 2021. Mr. Ashton said it felt good to get Council back in-person, and after Council resumed in-person meetings the boards and commissions would follow in August.

Questions from Council

Mayor Olem asked, for individuals in the community, when the outdoor water fountains would be turned on, and Mr. Ashton indicated he would get back to her.

Council Initiatives Update

Mr. Ashton indicated staff was working to get a Multicultural Committee discussion on the agenda for Council's July 6, 2021 meeting agenda. He thanked Council for their direction, the prior week, on what they wanted for the gun safety ordinance. Staff planned to proceed accordingly to meet the guidance given.

Mr. Ashton reminded everyone another Strategic Planning Meeting was coming up in August. He looked forward to a robust discussion and said it was a chance to exercise the policy Council adopted for setting priorities.

Questions from Council

Councilmember Singh asked what the date was for the August Strategic Planning Meeting.

Mr. Ashton said it would be on Thursday, August 5, 2021 and indicated they scheduled them three months apart.

Mayor Olem stated August 3, 2021 would be National Night Out, August 4, 2021 would be the August work session, and August 5, 2021 would be their Strategic Planning Meeting.

3. COMMENTS FROM THE TOWN COUNCIL

Vice Mayor del Aguila: No comments.

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Councilmember Alam: Councilmember Alam provided comments about assistance for non-English speakers trying to get vaccinations. (Some of Councilmember Alam's comments were inaudible.)

Councilmember Dhakal: No comments.

Councilmember Friedrichs: Councilmember Friedrichs stated it was Pride Month, and she wanted to assure everyone that they were celebrating Pride Month. She encouraged people to attend Pride events in the area and specifically mentioned an event at Lake Anne on June 19, 2021.

She also wanted to thank staff for their report to her on the Sugarland Run pollution. She was informed that the business who was dumping waste into Sugarland Run had capped the pipe and, in the future, would be flushing their wastewater into the sewage system, which was expensive for them. She saluted them for doing that and indicated it was not a small deal. She again thanked the staff for following up and the citizens who kept reporting for keeping the town in a nice condition.

Councilmember Regan: No comments.

Councilmember Singh: Mentioned he had two comments about items on the agenda, the first was on the water tower lease. He said two citizens asked him what was going on at the water tower. The citizens said it was looking like an industrial place everyday with some sort of truck and repairs being made. Councilmember Singh told them he would get back to them and that it was his favorite topic for a while. He had made comments in the past about the effect of the water tower leases on the community, and he knew water towers were needed. He thought over the past 20 years or so a lot of equipment and antennas had been installed. Councilmember Singh said he had spoken about several effects. He said he would take a different tact than complaining because that had not been very successful.

Councilmember Singh asked the Town Attorney and Town Manager to both address what laws, rules, and regulations apply to any development on this property. He said it was owned by the town and asked if the town was not obligated to follow its own laws. He asked, if there were no laws, how could the community effect change at this location and in what way could the community participate in the process and advance what they need to do. Councilmember Singh also asked what the long-term issue was at this location. He said there was plenty of land to build more buildings and put in more air conditioners and equipment on the ground. He also said there was more traffic from the water tower itself and other things (inaudible comment). He said he had talked about that. He reiterated he wanted the Town Attorney to write Council a memo and let them know what they need to do, what the laws are, and if the laws are there why they had not been complied with.

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Councilmember Singh's second comment on the agenda was referring things to the Planning Commission. He was not sure why they referred to them or under what conditions they refer to them. He said when things have been referred and come back, he has never found anything useful that he did not already know. Councilmember Singh said he was not sure what the purpose was, and he wanted it to be clear. He said he was not opposed, but he did not know why or how Council or people benefited. He asked someone to enlighten him on that process.

Mayor Olem: Stated she noticed people freezing up on the Webex, and they would work through that. Mayor Olem also announced that Friday Night Live! started July 2, 2021 for anyone interested. She said she spoke to people at Harbor House who could not wait to get back on the Town Green.

COMMENTS & DISCLOSURES FOR THE RECORD

Mayor Olem asked the Chief Deputy Town Clerk whether she had received comments for the record or Transactional Disclosure Declarations from Council on any items listed on that evening's agenda, and the Chief Deputy Town Clerk stated no comments or disclosures had been received disclosures from Council on any items listed on the agenda that evening

4. COMMENTS FROM THE AUDIENCE

Mayor Olem asked Ms. Kertz if there were any registered speakers during Comments from the Audience, and Ms. Kertz stated there were two registered speakers, however, she only saw one on the Webex, at that time.

Mayor Olem outlined the participation process for Webex. She stated Council would use a speakers list to call on those who have registered to provide "Comments from the Audience" to address Council on any matter that was not listed as a public hearing item on that night's agenda. She would call on each person that signed up to speak. She would then pause briefly while staff enabled the speaker's ability to address Council. Speakers would have up to three minutes and should state their name and address for the record. Comments from the Audience were limited to 45 minutes or approximately 15 speakers.

Mayor Olem stated that a timer would appear on the Webex screen and encouraged speakers to wrap up when there were 30 seconds left on the timer. She then called on the following individual, who provided comments:

- Ann Vayda Null, 631 Oak St., Herndon: Provided comments about returning to in-person meetings for citizen input, workforce housing, the Second Amendment, and the Temporary License Agreements on the Consent Agenda.

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Mayor Olem confirmed with Ms. Kertz that the second registered speaker was not available on the Webex to provide comments.

PUBLIC HEARINGS

5. Ordinance 21-O-12, to approve and authorize the Mayor to sign a new five-year lease for space on the Third Street water tower and ground space at the site to New Cingular Wireless PCS, LLC d/b/a AT&T Mobility Corporation.

Certificates of Publication were filed from the Editor of the *Fairfax County Times Newspapers*, showing that notice of said public hearing item had been duly advertised in the Friday, May 21, 2021 and Friday, May 28, 2021 issues.

Mayor Olem stated they would follow the town's bid process that evening. Mayor Olem announced that the town received one bid from the AT&T Mobility Corporation which had been entered into the record and is on file in the Town Clerk's office.

Mayor Olem asked Mr. Ashton whether staff received additional bids, and Mr. Ashton stated they had not.

Hearing none, Mayor Olem closed the bidding process.

Mayor Olem recognized Tammy Chastain, Deputy Director of Public Works, who presented the staff report and PowerPoint dated June 8, 2021 which are on file in the Town Clerk's office.

Ms. Chastain stated the town proposes to enter into a new Deed of Lease for a term of five-years with an option for one five-year extension with New Cingular Wireless PCS, LLC d/b/a AT&T Mobility Corporation, who are current tenants at the Third Street water tower. That lease expired on May 31, 2021. The new proposed lease would be effective June 1, 2021.

The town would lease portions of the property consisting of approximately 312 square feet on the ground, and space on the tower for the placement of lessee's antennas and equipment. The monthly lease amount would be \$3,457.65 and subject to a three percent annual escalation provided for in the Deed of Lease.

Staff recommended approval.

Discussion

Mayor Olem's screen froze, and Vice Mayor del Aguila indicated he had a question.

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Vice Mayor del Aguila asked if there were any changes since the work session presentation, and Ms. Chastain confirmed there were no changes.

Vice Mayor del Aguila stated Mayor Olem was frozen again, and asked Ms. Yeatts if protocol was to keep going. Ms. Yeatts asked Vice Mayor del Aguila if he got to ask all of his question.

Ms. Yeatts asked if there were any other questions.

Mr. Ashton opined that Vice Mayor del Aguila was asking if he should take control of the meeting.

Ms. Yeatts indicated that since it was a public hearing, she would ask the Vice Mayor to assume control of the meeting. As Ms. Yeatts was speaking, Mayor Olem rejoined the Webex.

Mayor Olem asked if they already had the applicant speak, and Ms. Yeatts clarified that they needed to ask if the applicant was present and wanted to speak.

Mayor Olem recognized the applicant's agent to address Council.

- Jasmin Hall, AT&T: Ms. Hall indicated she was available for questions and that Ms. Chastain had covered everything related to the deed.

There were no questions for Ms. Hall from any members of Council.

Mayor Olem asked Ms. Kertz if there were any registered speakers on this item. Ms. Kertz confirmed there were no registered speakers that evening.

Mayor Olem closed the public hearing and moved to Council level for discussion and action.

Councilmember Friedrichs moved to approve Ordinance 21-O-12, authorizing the Mayor to sign a new five-year lease for space on the Third Street water tower & ground space at the site to New Cingular Wireless PCS, LLC d/b/a AT&T Mobility Corporation.

Councilmember Dhakal seconded the motion.

There was no discussion.

The question was called on the motion, which carried by unanimous roll call vote by electronic means. The vote was: Councilmembers Alam, Dhakal, Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye."

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Ordinance 21-O-12, to approve and authorize the Mayor to sign a new five-year lease for space on the Third Street water tower and ground space at the site to New Cingular Wireless PCS, LLC d/b/a AT&T Mobility Corporation.

BE IT ORDAINED by the Town Council for the Town of Herndon, Virginia that:

1. The Town Council approves the lease dated June 8, 2021, granting a five-year lease for maintenance of telecommunications facilities existing from their previous lease with the Town. This lease is on file in the office of the Town Attorney and incorporated by reference. The lease shall provide that the rent shall be \$3,457.65 per month with a three percent per year escalator; commencing on June 1, 2021, the term shall be five years with an option for one five-year extension; and the lessee shall provide liability insurance to the Town and shall indemnify the Town from liability associated with Lessee's use.
2. The Mayor is authorized to sign and deliver the lease as described in paragraph 1 above and any related document necessary to evidence or effect the lease.
3. This ordinance shall be effective on and after the date of its adoption.

[Note: Attached at the end of the minutes for reference is the Deed of Lease dated June 8, 2021 b/n town and New Cingular Wireless PCS, LLC d/b/a AT&T Mobility Corporation.]

GENERAL

6. **Resolution 21-G-56, to initiate consideration of a Zoning Ordinance Text Amendment ZOTA #21-03 to amend Chapter 78 (ZONING), Article VII (Use Regulations), Article VIII (Accessory Uses), and other articles as deemed necessary and appropriate to revise regulations governing accessory dwelling units.**

Mayor Olem recognized Elizabeth Gilleran, Director of Community Development, who presented a staff report and PowerPoint dated June 8, 2021, which are on file in the Town Clerk's office.

Ms. Gilleran reviewed initiating resolutions and the process for zoning text amendments. If approved, this initiating resolution would allow ZOTA #21-03 to be brought to a public hearing of the Planning Commission for their consideration and recommendation. Following Planning Commission review, this text amendment would

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return to Council for final action. Ms. Gilleran further reviewed that the initiating resolution came from Chairman Romeo's formal request on April 29, 2021. The initiating resolution was for consideration of ZOTA #21-03 to amend Chapter 78 (ZONING), Article VII (Use Regulations), Article VIII (Accessory Uses), and other articles as deemed necessary and appropriate to revise regulations governing accessory dwelling units. Additional information was available in the staff report which is on file in the Town Clerk's office.

Staff recommended approval.

Councilmember Singh commented that, given his earlier comments, the text of this amendment seemed to say that every zoning text amendment must go to the Planning Commission, be developed by them, and then approved by them. He asked if that was correct.

Ms. Gilleran deferred to the Town Attorney.

Ms. Yeatts said the state code dictates the process for the responsibility of the Planning Commission to review items before they come to Council. She could provide the citation to Councilmember Singh. She reiterated the requirement came from the state code.

Councilmember Singh said it seemed like it and said he may have misspoken. He asked for confirmation, if all zoning text amendments had to go to the Planning Commission. Ms. Yeatts confirmed.

Councilmember Singh asked if there were other things that had to go to the Planning Commission.

Ms. Yeatts stated there were and she may be able to email him a list that night of the specific items where the Planning Commission has review responsibility and Council, as the legislative body, has the decision-making responsibility.

Councilmember Singh said he commented because, when he was on Council before, there were things sent to the Planning Commission that came back. He said he did not find what had been done was useful to Council. He opined that they "rubberstamped whatever the consultant had done." He felt that they may give some things to the Planning Commission that they did not necessarily need to look at. He said his comment was in that spirit.

Ms. Yeatts indicated there were things a Town Council could elect to refer items to a Planning Commission. She stated that she was unsure if that happened with the items Councilmember Singh was recalling.

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Vice Mayor del Aguila wanted to make sure nothing had changed since the work session, and Ms. Gilleran confirmed there were no changes. Vice Mayor del Aguila said he wanted to ask that because people were watching and listening, and he wanted them to know they were not asking questions because they asked a lot at the work session.

Councilmember Friedrichs wanted to say this was the beginning, she supported going through the process, respected the Planning Commission's expertise, and Council could decide once they received information back. She reiterated she supported this.

Mayor Olem moved to Council level for discussion and action.

Councilmember Regan moved to approve Resolution 21-G-56, initiating consideration of a Zoning Ordinance Text Amendment ZOTA #21-03, to amend Chapter 78 (ZONING), Article VII (Use Regulations), Article VIII (Accessory Uses), and other articles as deemed necessary and appropriate to revise regulations governing accessory dwelling units.

Councilmember Friedrichs seconded the motion.

Councilmember Regan provided supportive comments about the process and the motion. Councilmember Regan also said during his time on the Planning Commission, he could not remember any times they "rubberstamped the recommendations of any consultants." He said the meetings were thorough, and he was confident the Planning Commission would do a thorough job on all matters put before them.

Councilmember Friedrichs concurred with Councilmember Regan's comments.

Councilmember Singh provided comments about the Planning Commission and Council deciding what was acceptable to them.

Vice Mayor del Aguila provided supportive comments about the resolution.

Councilmember Dhakal provided supportive comments about the resolution and the Planning Commission.

Mayor Olem provided supportive comments about her confidence in the Planning Commission and all of the town's boards and commissions.

Mayor Olem's screen froze on the Webex.

The question was called on the motion, which carried by unanimous roll call vote by electronic means. The vote was: Councilmembers Alam, Dhakal, Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye."

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Resolution 21-G-56, to initiate consideration of a zoning ordinance text amendment ZOTA #21-03 to amend Chapter 78 (ZONING), Article VII (Use Regulations), Article VIII (Accessory Uses) and other articles as deemed necessary and appropriate to revise regulations governing accessory dwelling units.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby:

1. Initiates consideration of an amendment to Chapter 78 (ZONING) of the Herndon Town Code to revise the process and regulations governing accessory dwelling units.
2. Directs the Planning Commission to draft an amendment that reflects current best practice in the field of planning, resolves long-standing concerns associated with the current language of the Chapter 78 (Zoning) governing accessory dwelling units, and which maintains the character of the neighborhood while permitting an increase in housing supply.
3. Out of public necessity, convenience, general welfare, or good zoning practice, requires the Town Council's consideration of this proposed amendment.

CONSENT AGENDA

7. **Ordinance 21-O-13, to approve and authorize the Mayor to sign a new two-year Lease Agreement between the Town and Evince Analytics, Inc., for space at 397 Herndon Parkway;**
8. **Ordinance 21-O-14, to approve and authorize the Mayor to sign a Lease Agreement between the Town and The Elden Street Players d/b/a NextStop Theatre Company, for space at 397 Herndon Parkway;**
9. **Resolution numbers 21-G-49 through 21-G-52, to ratify Temporary License Agreements between the Town of Herndon and Green Lizard Cycling (21-G-49), Mile 20 at Mediterranean Breeze (21-G-50), Russia House Restaurant (21-G-51), and Zeffirelli Ristorante Italiano (21-G-52) for use of public property or public right-of-way for temporary outdoor dining;**
10. **Resolution 21-G-53, to ratify a Temporary Sublicense Agreement between the Town of Herndon and Messi Kuhns, LLC dba Sully's Pour House for use of public property or public right-of-way licensed to the Town for temporary outdoor dining;**

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11. Resolution 21-G-54, to ratify an Agreement for Adjustment of Water & Sewer Facilities pursuant to Ordinance 20-O-23 Continuity of Governmental Operations, as amended, between the Town of Herndon and Commonwealth of Virginia, Department of Transportation (VDOT);
12. Resolution 21-G-55, to award Contract #B-21-01, Herndon Metrorail Intermodal Access Improvement Project;
13. Resolution 21-G-57, to reappoint Eric Boll to the Architectural Review/Historic District Review Boards; and
14. Resolution 21-G-58, to reappoint Kevin Moses to the Herndon Planning Commission.

On motion of Councilmember Friedrichs, seconded by Vice Mayor del Aguila, the Consent Agenda items were approved by unanimous roll call vote by electronic means, without comment. The vote was: Councilmembers Alam, Dhakal, Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye."

Ordinance 21-O-13, to approve and authorize the Mayor to sign a new two-year Lease Agreement between the Town and Evince Analytics, Inc., for space at 397 Herndon Parkway.

BE IT ORDAINED by the Town Council for the Town of Herndon, Virginia that:

1. The Town Council approves a lease dated June 8, 2021 by which the Town would lease to Evince Analytics, Inc., 1,932 sq. ft. of space in the Town's building at 397 Herndon Parkway, Herndon, Virginia. (As reflected on Exhibit A)
2. The term shall be for two (2) years from July 1, 2021 through June 30, 2023, with an option for extension of term for one (1) year upon mutual agreement of both parties. The option extends the lease from July 1, 2023 through June 30, 2024.
3. The rent shall be \$18/SF in the first lease year and 3% escalation in each subsequent year of the base term. Total rent paid to the town shall be \$34,776 for July 1, 2021 through June 30, 2022, \$35,819 for July 1, 2022 through June 30, 2023. Rent for the extension period will be mutually agreed upon prior to executing the option. Evince shall make equal monthly payments of rent on the first calendar day of the month.

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4. The Mayor is authorized to sign and deliver the lease as described in paragraphs 1 through 3 above and any related document necessary to evidence or effect the lease.
5. This ordinance shall be effective on and after the date of its adoption.

[Note: Attached for reference at the end of the minutes is the Lease dated June 8, 2021 b/n town and Evince Analytics, Inc.]

Ordinance 21-O-14, to approve and authorize the Mayor to sign a Lease Agreement between the Town and The Elden Street Players d/b/a NextStop Theatre Company, for space at 397 Herndon Parkway.

BE IT ORDAINED by the Town Council for the Town of Herndon, Virginia that:

1. The Town Council approves a lease dated June 8, 2021 by which the Town would lease to The Elden Street Players, space in the Town's building at 397 Herndon Parkway, Herndon, Virginia solely for storage. The term shall be for one (1) year beginning July 1, 2021 through June 30, 2022. The rent shall be \$1.00 for the term.
2. The Mayor is authorized to sign and deliver the lease as described in paragraph 1 above and any related document necessary to evidence or effect the lease.
3. This ordinance shall be effective on and after the date of its adoption.

[Note: Attached for reference at the end of the minutes is the Lease Agreement dated June 8, 2021 b/n town and The Elden Street Players d/b/a NextStop Theatre Company.]

Resolution 21-G-49, to ratify a Temporary License Agreement between the Town of Herndon and Green Lizard Cycling, LLC for use of public property or public right-of-way for temporary outdoor dining.

WHEREAS, the Town of Herndon is the owner of the public property or right-of-way, including any adjacent sidewalks and green areas; and

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WHEREAS, due to the COVID-19 pandemic, indoor dining service for businesses were prohibited or limited by Executive Orders of Governor Northam; and

WHEREAS, pursuant to the Governor's Executive Orders, as amended; and Ordinance 20-O-23, Continuity of Governmental Operations during Pandemic Disaster (COVID-19), as amended, the Town Manager was authorized to approve temporary license agreements for use of public property or public right-of-way for temporary outdoor dining.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia hereby ratifies the temporary license agreement dated May 10, 2021 between the Town of Herndon and **Green Lizard Cycling, LLC** use of public property or public right-of-way for temporary outdoor dining at 718 Lynn Street, Herndon.

Resolution 21-G-50, to ratify a Temporary License Agreement between the Town of Herndon and Teryanna, LLC dba Mile 20 at Mediterranean Breeze for use of public property or public right-of-way for temporary outdoor dining.

WHEREAS, the Town of Herndon is the owner of the public property or right-of-way, including any adjacent sidewalks and green areas; and

WHEREAS, due to the COVID-19 pandemic, indoor dining service for businesses were prohibited or limited by Executive Orders of Governor Northam; and

WHEREAS, pursuant to the Governor's Executive Orders, as amended; and Ordinance 20-O-23, Continuity of Governmental Operations during Pandemic Disaster (COVID-19), as amended, the Town Manager was authorized to approve temporary license agreements for use of public property or public right-of-way for temporary outdoor dining.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia hereby ratifies the temporary license agreement dated May 10, 2021 between the Town of Herndon and **Teryanna, LLC dba Mile 20 at Mediterranean Breeze** for use of public property or public right-of-way for temporary outdoor dining at 781 Station Street, Herndon.

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Resolution 21-G-51, to ratify a Temporary License Agreement between the Town of Herndon and Feral, LTD dba Russia House Restaurant for use of public property or public right-of-way for temporary outdoor dining.

WHEREAS, the Town of Herndon is the owner of the public property or right-of-way, including any adjacent sidewalks and green areas; and

WHEREAS, due to the COVID-19 pandemic, indoor dining service for businesses were prohibited or limited by Executive Orders of Governor Northam; and

WHEREAS, pursuant to the Governor's Executive Orders, as amended; and Ordinance 20-O-23, Continuity of Governmental Operations during Pandemic Disaster (COVID-19), as amended, the Town Manager was authorized to approve temporary license agreements for use of public property or public right-of-way for temporary outdoor dining.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia hereby ratifies the temporary license agreement dated May 3, 2021 between the Town of Herndon and **Feral, LTD dba Russia House Restaurant** for use of public property or public right-of-way for temporary outdoor dining at 724 Pine Street, Herndon.

Resolution 21-G-52, to ratify a Temporary License Agreement between the Town of Herndon and Pine Street Restaurant, Inc. dba Zeffirelli Ristorante Italiano for use of public property or public right-of-way for temporary outdoor dining.

WHEREAS, the Town of Herndon is the owner of the public property or right-of-way, including any adjacent sidewalks and green areas; and

WHEREAS, due to the COVID-19 pandemic, indoor dining service for businesses were prohibited or limited by Executive Orders of Governor Northam; and

WHEREAS, pursuant to the Governor's Executive Orders, as amended; and Ordinance 20-O-23, Continuity of Governmental Operations during Pandemic Disaster (COVID-19), as amended, the Town Manager was authorized to approve temporary license agreements for use of public property or public right-of-way for temporary outdoor dining.

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NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia hereby ratifies the temporary license agreement dated May 20, 2021 between the Town of Herndon and **Pine Street Restaurant, Inc. dba Zeffirelli Ristaurante Italiano** of public property or public right-of-way for temporary outdoor dining at 728 Pine Street, Herndon.

Resolution 21-G-53, to ratify a Temporary Sublicense Agreement between the Town of Herndon and Messi Kuhns, LLC dba Sully's Pour House for use of public property or public right-of-way licensed to the Town for temporary outdoor dining.

WHEREAS, the Town of Herndon is the licensee of the public property or right-of-way, including any adjacent sidewalks and green areas; and

WHEREAS, due to the COVID-19 pandemic, indoor dining service for businesses were prohibited or limited by Executive Orders of Governor Northam; and

WHEREAS, pursuant to the Governor's Executive Orders, as amended; and Ordinance 20-O-23, Continuity of Governmental Operations during Pandemic Disaster (COVID-19), as amended, the Town Manager was authorized to approve temporary agreements for use of public property or public right-of-way for temporary outdoor dining.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia hereby ratifies the temporary sublicense agreement dated May 17, 2021 between the Town of Herndon and **Messi Kuhns, LLC dba Sully's Pour House** for use of public property or public right-of-way licensed to the Town for temporary outdoor dining at 754 Elden Street, #102, Herndon.

Resolution 21-G-54, to ratify an Agreement for Adjustment of Water & Sewer Facilities pursuant to Ordinance 20-O-23 Continuity of Governmental Operations, as amended, between the Town of Herndon and Commonwealth of Virginia, Department of Transportation (VDOT).

WHEREAS, the East Spring Street Widening Improvements is a long-standing CIP project (the "Project") that is being administered by the Commonwealth

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of Virginia, Department of Transportation (VDOT) who is designing and building the improvements; and

WHEREAS, as part of the Project, the Town's water and sewer facilities will have to be relocated and adjusted; and

WHEREAS, the Agreement for Adjustment of Water & Sewer Facilities allows VDOT and its construction contractor to relocate and adjust the Town's facilities in accordance with the construction plans; and

WHEREAS, The Agreement for Adjustment of Water & Sewer Facilities was signed by the Town Manager and ratified by Town Council.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia hereby ratifies the Agreement for Adjustment of Water & Sewer Facilities dated April 20, 2021 and signed by the Town Manager between the Town of Herndon and Commonwealth of Virginia, Department of Transportation (VDOT) for the East Spring Street Widening Improvement project in Herndon.

[Note: Attached for reference at the end of the minutes is the Agreement for Adjustment of Water & Sanitary Sewer Facilities dated April 20, 2021 b/n the town and the Commonwealth of Virginia, Department of Transportation.]

Resolution 21-G-55, to award Contract #B-21-01, Herndon Metrorail Intermodal access Improvement Project.

WHEREAS, the Herndon Metrorail Intermodal access Improvement Project is in the Capital Improvement Program; and

WHEREAS, Contract #B-21-01, Herndon Metrorail Intermodal access Improvement Project, was advertised on March 19, 2021; and

WHEREAS, a pre-bid conference was held on March 25, 2021 and was attended by no firms; and

WHEREAS, the following bids were received and opened on April 15, 2021 at a public bid opening:

Contractor
Arthur Construction Co., Inc.

Bid
\$ 1,757,880.00

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Sagres Construction Corporation	\$ 1,795,000.00
A&M Concrete Corporation	\$ 2,083,438.00
Fort Myer Construction Corporation	\$ 3,252,439.75; and

WHEREAS, the Arthur Construction Co., Inc. submitted the lowest bid which was found to be responsive and responsible; and

WHEREAS, staff recommends in addition to the contract that a contingency of \$183,155, which is approximately 10.4 percent of the bid, be authorized; and

WHEREAS, funds to support this contract are available in the Capital Projects Account Number #015-0886-491790; and

WHEREAS, reimbursement of funds up to \$1,757,880 or 100% of total construction costs are available through a Virginia Department of Transportation (VDOT) agreement between the Town of Herndon and VDOT and General Obligation Bonds.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby awards Contract #B-21-01, Herndon Metrorail Intermodal access Improvement Project, to **Arthur Construction Co., Inc.**, in the amount of \$1,757,880.

BE IT FURTHER RESOLVED that the Town Council of the Town of Herndon, Virginia hereby authorizes a contingency of \$183,155.

BE IT FURTHER RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby authorizes the Town Manager's designee to approve contract modifications (change orders) that increase project scope and costs, utilizing the project contingency.

Resolution 21-G-57, to reappoint Eric Boll to the Architectural Review/Historic District Review Boards.

BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby reappoints **Eric Boll** as a 'town resident' member to the Architectural Review/Historic Review Boards for a three-year term ending June 30, 2024.

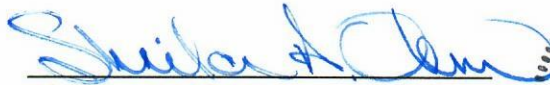
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Resolution 21-G-58, to reappoint Kevin Moses to the Herndon Planning Commission.

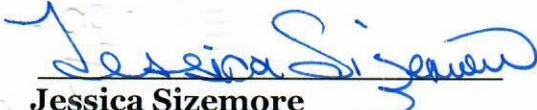
BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby reappoints **Kevin Moses** to the Herndon Planning Commission for a four-year term ending July 31, 2025.

15. ADJOURNMENT

Councilmember Dhakal moved to adjourn the meeting of the June 8, 2021 public hearing, and Councilmember Regan seconded the motion. The question was called on the motion which carried by a unanimous roll call vote by electronic means, and the meeting of the June 8, 2021 public hearing adjourned at 7:48 p.m. The vote was: Councilmembers Alam, Dhakal, Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye."



**Sheila A. Olem
Mayor**



**Jessica Sizemore
Legislative Assistant**

Minutes approved by Town Council: September 28, 2021.